CRP 423/2007

BEFORE

HON'BLE MR. JUSTICE B.D AGARWAL

Heard Shri N.N.Jha, learned counsel for the petitioner.

I have also perused the impugned order dated 9.10.2007 passed by the learned Munsiff No.2, Kamrup, Guwahati in Title Suit No. 289 of 2006. By this order, the learned Munsiff has accepted the prayer of the defendants to amend his written statement. Being aggrieved with this order, the plaintiff has filed this revision application.

Shri Jha submitted that the amendment should not have been allowed since the trial had already commenced. It was also submitted that by way of amendment, the defendants have attempted to improve their defence.

In the case of Baldev Singh & ors. V. Manohar Singh & anr. (AIR 2006 SC 2832), it has been held that yardstick for allowing written statement of the defendants is different from the amendment of the pleading of the plaintiff. Their Lordship have further held that inconsistent pleas can be raised by the defendants in a written statement.

In view of the aforesaid authority of the Hon'ble Apex Court, I do not see any reason to interfere with the impugned order. Since the amendment has been allowed after filing of the evidence of the plaintiff, the interest of the plaintiff can be protected by allowing him to file reply to the amended plaint. If any such reply is filed, the trial court shall be at liberty to modify the Issues.

With the aforesaid observation, the revision application stands disposed of.